

**DEPARTMENT OF FINANCE
HOTEL/MOTELTAX
DECEMBER 2004**

2004

December

The County Council and County Executive
Of Howard County, Maryland

Pursuant to Section 212 of the Howard County Charter and Council Resolution 22-1985,
we have conducted a review of selected activities of the

DEPARTMENT OF FINANCE
HOTEL/MOTEL TAX

and or report is submitted herewith. The scope of our examination related specifically to a
follow-up

review of the recommendations made in our May 2000 report and a review of current operations.

The

body of our report presents our findings and recommendations.

The contents of this report have been reviewed with the Chief Administrative Officer and
the

Director of Finance. We wish to express our gratitude to the Department of Finance employees
for

the cooperation and assistance extended to us during the course of this engagement.

Ronald S. Weinstein, C.P.A.
County Auditor

Mitchell Plank, C.P.A.
Auditor-in-Charge

BACKGROUND AND SUMMARY

In August 1992, Howard County, in accordance with section 20.401 of the Howard County Code, began imposing a room rental tax of 5% on hotels and motels located in the County. This tax is imposed on revenues collected from guests staying 30 or fewer consecutive days (visitors), those who are not employed with federal, state, or local government, or whose charges are not paid through a tax exempt agency. The room rental taxes that were collected during the prior month must be paid to the County on or before the last day of each month. To ensure that the proper amount of tax was being collected in accordance with County laws, we performed an audit of these revenues in March of 1995. That audit involved visiting ten of the thirty hotels/motels in the County or their accountants and issuing a report, which contained eight recommendations to improve the tax collection process. A follow-up of that report was completed in May of 2000 to determine the status of the original eight recommendations and to test additional facilities. The May 2000 follow-up found that two of the original recommendations, which relate to hotel/motel record keeping had not been implemented and that eight additional recommendations were needed. We have now completed a follow-up of that May 2000 report to determine the status of the previous recommendations and to test additional facilities. We found that two of the previous recommendations, which relate to non-visitor length of stay (more than 30 days), have been implemented, but the hotels/motels are still unaware of the length of stay requirements. We have included these recommendations in our current report because we believe that they need to be recommended again.

As part of our continuing review of the room rental tax collection process, we examined the records of ten hotels/motels for adherence to County tax laws. These establishments were selected with the help of the Department of Finance in an attempt to analyze those hotels/motels with high exemption amounts. Several were found to have not maintained the required records relating to this tax. One motel was inaccurately including other expenses in their gross room rental amount and incorrectly identifying non-visitors. Two hotels were incorrectly refunding guests the local taxes paid after stays of 25 days. Several were not refunding local and state taxes to guests who stayed over 30 days. One hotel could not verify the total amount of exemptions for non-visitor guests. We have recommended that the Department of Finance send invoices to those hotels, which could not provide the applicable documentation to verify non-visitor guests and to the two hotels inaccurately refunding local taxes to guests after 25 days.

We have also recommended that the Department of Finance once again inform these hotels that non-visitor summaries must be provided on a monthly basis.

INTRODUCTION AND SCOPE

In March 1995, the Office of the County Auditor issued a report on the room rental tax collection process. The scope of that audit related specifically to a review of the records of ten hotels or motels in Howard County and their adherence to County room rental tax laws. A follow-up audit was completed in May 2000. The scope of that report related to a review of the recommendations made in the March 1995 report and a review of the records of ten additional hotels or motels in Howard County. As part of our audit process, we perform follow-up reviews on completed audits to determine the current status of the original report recommendations and to review existing operations. We have again reviewed the records of ten hotels or motels as they relate to the collection and payment to Howard County of the room rental tax.

At each location, we reviewed two types of information, where available: 1) tax returns, audited financial statements, or profit and loss statements, to compare the annual revenue on these documents to the annual revenue shown on the room rental tax reports, and 2) daily room rental cards, or folios, to compare them to the daily entries on the monthly recap sheets which were then compared to the monthly room rental tax reports. Our conclusions are based on a review of these documents.

FOLLOW-UP OF RECOMMENDATIONS

We performed a follow-up audit of the hotel and motel room rental tax and issued a report in May 2000. That follow-up audit involved examining the room rental tax collection process at ten of the hotels or motels in the County and examining the status of eight recommendations made in the May 1995 audit. The contents of that follow-up report included eight additional recommendations for the areas that we felt needed improvement. The scope of this follow-up included examining the status of implementation of those previous recommendations. The two original recommendations from the 1995 report were implemented prior to the beginning of our fieldwork. In May 2003, the Department of Finance sent a letter to all hotel/motels in the County informing them of specific reporting and record keeping requirements. This satisfied four of the eight follow-up recommendations. Two additional recommendations were implemented prior to the beginning of our fieldwork. The two remaining recommendations have been implemented by the Department of Finance since the 2000 audit; however, after our current review, we feel that these recommendations are appropriate to repeat again for this audit. Recommendations from the 2000 report that we feel should be repeated are as follows:

1. *The Department of Finance inform all hotels/motels in writing that the length of stay required for exemptions is 31 days or more.*

Current Status:

In our current review we found two hotels that were refunding guests their local taxes after 25 days. We recommend that the Department of Finance inform all hotels of the requirements regarding length of stay to ensure that guests are not refunded before 31 days.

Administration's Response:

The Administration concurs with this recommendation. The Department of Finance sent a letter dated May 2000 to all hotels/motels mentioning that the length of stay required for exemptions is more than 30 days. Every year the Department of Finance sends a letter addressing the County laws/requirements regarding exemptions, length of stay and disallowance of exemptions to all hotels/motels along with the annual supply of forms.

2. *The Department of Finance notify the hotels and motels on how to implement the County law relating to length of stay for exemptions.*

Current Status:

Several of the hotels/motels we visited were not refunding local taxes to guests who stayed in excess of 30 days. Guests should be exempt for the entire stay if it is more than 30 consecutive days. The hotel/motel should automatically refund the local tax to the guest after the guest has stayed the 31st day. We recommend that the Department of Finance inform all hotels/motels in the County that local taxes are to be refunded to guests after their 31st consecutive day.

Administration's Response:

The Administration concurs with this recommendation. The Department of Finance sent a letter dated May 2000 to all hotels/motels referring to the exemptions for the length of stay. Every year the Department of Finance sends a letter addressing the County laws/requirements regarding exemptions, length of stay and disallowance of exemptions to all hotels/motels along with the annual supply of forms. We will continue to send a reminder to all hotels/motels each year.

CURRENT FINDINGS

As part of our 2004 review, we examined ten hotels or motels for adherence to County room rental tax laws. At several locations, we discovered that the exemptions were not properly taken and/or properly documented. We have included seven new recommendations, which relate to the determination and documentation of the exemptions.

At one of the motels, we found that phone call charges were incorrectly being included with gross income applicable to taxation. We informed the owner that his gross income was being overstated due to the inclusion of the phone call charges. The owner was appreciative, but was still unsure about the law in general and how to account for the tax. To ensure that all owners are aware of all new laws and procedures, we recommend that:

1. *The Department of Finance notify hotel/motel owners of the specific way to account for gross receipts and exemptions. The hotel/motel owners should be specifically told what constitutes gross receipts and the definition of each of the three types of exemptions. The sample spreadsheet should be sent to each hotel/motel again to ensure that these establishments have an idea of what is needed for verification purposes.*

Administration's Response:

The Administration concurs with this recommendation. The Department of Finance will send a letter and spreadsheet again to all hotels/motels.

In analyzing the three types of exemptions, we found that the exemption for federal, state, and local government employees was not included in the Howard County Government Code. This exemption language for the government exemption was adapted from the State exemption for government employees. Government employees are allowed exemption from state use taxes if they pay for their hotel/motel stay with a government issued credit card, which bills purchases directly to the government. For documentation purposes, we recommend that:

2. *The Department of Finance inform the Administration that language to allow tax exemptions for federal, state, and local government employees be included in the Howard County Government Code.*

3. *Once the legislation is adopted, the Department of Finance require documentation of all federal, state, and local government employees in the form of a government issued credit card. A listing of all government employees seeking tax exemption should be included with the Room Rental Charge Tax Collection Report that is submitted to the Department of Finance on a monthly basis.*

Administration's Response:

Finance will propose the recommended code change and will develop procedures identifying documentation and reporting requirements for such exemptions.

We found that several of the hotels/motels were unsure of refunds to be given to the customer regarding stays in excess of 30 consecutive days. One of the hotels informed us that it was refunding state taxes to those who stayed over 30 days, but not local taxes. Several motel owners/managers informed us that they did not refund the taxes to the guest unless the guest requested a refund. As most guests of hotels in the County do not know the Code, we recommend that:

4. *The Department of Finance inform all hotels/motels that they are required to display a sign in visible view that local taxes are not charged after 31 consecutive days, and that refunds are given on taxes collected for the 31 consecutive days.*

Administration's Response:

The Department of Finance will recommend to all hotels/motels that they display a sign.

At another hotel, we found that although records were maintained, their records could not validate the exemptions that were submitted. When these records were reviewed, we found there was no summary spreadsheet listing all non-visitor stays. To validate the non-visitors, we attempted to collect all the folios for that period that listed tax-exempt charges. When compiled, we could not match the total of all the tax-exempt folios to the exemption total that was submitted. We informed the hotel that the amount that could not be validated would need to be extrapolated over the course of a year for sample purposes and then taxed. To ensure that proper records are maintained for ease of use, we recommend that:

5. *The Department of Finance notify the hotels and motels on how to document all exemptions. Exemptions should be listed on a summary spreadsheet for each month and then verification detail for this spreadsheet should be attached. The spreadsheet should document the guest name, the dates the guest stayed, the category of exemption claimed, and the total tax exempt amount. This spreadsheet should be attached to the monthly Room Rental Tax Collection Report.*
6. *The Department of Finance send a bill to the hotel for additional taxes due in the amount of \$3,014.39.*

Administration's Response:

The Administration concurs with the recommendations. The Department of Finance will inform all hotels/motels to send separate supporting documentation for all exemptions claimed. We will also send an invoice for additional taxes of \$3,014.39.

Two hotels under the same corporate accounting office were refunding guests their local taxes after 25 days. Although the hotel was refunding the tax properly, it was incorrect as to the length of stay required to be a non-visitor. We informed the corporate office that the length of stay requirement changed in 1998 and that guests had to have 31 consecutive stays to be considered a non-visitor. The corporate office requested a copy of the Code and agreed that back taxes for the 2 hotels should be assessed. To calculate the back tax for one year, we utilized the sample month, March 2004, and extrapolated the total unpaid tax to the County over 12 months for all guests who stayed 25 consecutive days but left the hotel before their 31st consecutive stay. We recommend that:

7. *The Department of Finance send a bill to the hotels' corporate office for additional taxes due in the amounts of \$1,918.92 and \$5,744.88.*

Administration's Response:

The Administration has requested the Office of Law for an opinion whether the hotel is liable to pay the County room rental taxes that were not collected from the hotel guests and if the County has the authority to collect these taxes from the hotel. Collection of those taxes will be pursued further.

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